

Meeting Notice

STATE BOARD OF GEOLOGIST REGISTRATION

**August 29, 2002
10:00 A.M.**

**DIVISION OF PROFESSIONAL REGISTRATION
3605 MISSOURI BOULEVARD
Jefferson City, MO**

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#7 Except to the extent disclosure is otherwise required by law, the State Board of Geologist Registration is authorized to close meetings, records and votes, to the extent they relate to the following: Sections 610.021(1), (3), (5), (7), (13) and (14), RSMo, and Section 620.010.14(7), RSMo

#8 The Committee may go into closed session at any time during the meeting. If the meeting is closed, the appropriate section will be announced to the public with the motion and vote recorded in open session minutes.

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Posted 03/24/09
10:43 AM

MISSOURI BOARD OF GEOLOGIST REGISTRATION

**DIVISION OF PROFESSIONAL REGISTRATION
3605 MISSOURI BOULEVARD
JEFFERSON CITY, MO**

AUGUST 29, 2002 10:00 A.M.

MEETING

OPEN SESSION AGENDA

Call to Order	John Howard
Roll Call	Paul Foster
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Upcoming Meetings -ASBOG Annual meeting	
Meetings Attended -Geo/APELS meeting on June 13, 2002	John Howard Larry Hendren
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EXECUTIVE DIRECTOR'S REPORT	

MISSOURI BOARD OF GEOLOGIST REGISTRATION

**DIVISION OF PROFESSIONAL REGISTRATION
3605 MISSOURI BOULEVARD
JEFFERSON CITY, MO**

MEETING

AUGUST 29, 2002

Meeting will begin at close of open session.

CLOSED SESSION AGENDA

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WELCOME TO THE STATE BOARD OF GEOLOGIST REGISTRATION

OPEN MEETING

August 29, 2002

PLEASE **PRINT** YOUR NAME BELOW

NAME	ASSOCIATED WITH:
Greg Kempen	AEG (ASST of Engr Geologists) St. Louis Section
Rob Robb	AIPG - Missouri Section
JOHN L. BOGNAN	AIPG MO
Lawrence C. Rosen	AEG - St Louis
Mikal C. Carlson	Gradell Engineering Resources J/C no
DAVID SHORR	WATKOP & GACR
Tom Gradell	Gradell Engr. Resources J C MO
Shirley Lyle	MSPE - CE & Env
Judy Kempen	APELSLA Board
John Huss	MSPE - Pres.
Peter Price, RG	AEG - St Louis Section

OPEN MEETING

PLEASE **PRINT** YOUR NAME BELOW

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**MISSOURI BOARD OF GEOLOGIST REGISTRATION
DIVISION OF PROFESSIONAL REGISTRATION
3605 MISSOURI BOULEVARD
JEFFERSON CITY, MO**

AUGUST 29, 2002 -- OPEN MINUTES

The open session of the Missouri State Board of Geologist Registration meeting was called to order by John Howard, Chairperson, at 10:00am, at the Division of Professional Registration building, 3605 Missouri Blvd, Jefferson City, Missouri.

Board Members:

John Howard, Chairperson
Cynthia Brookshire, Secretary
Lisa Hosey, Member
Larry Hendren, Member
Mimi Garstang, Ex-Officio Member

Members Absent:

Michelle Smart, Vice Chairperson, Public Member
Vacant, Public Member
Vacant, Board Member

Staff:

Pam Groose, Executive Director
Roxy Brockman, Clerk IV
Karen Hess, Assistant Attorney General
Sharon Euler, Assistant Attorney General

Visitors:

Shelly Woods, Assistant Attorney General for Department of Natural Resources
Peter Price, RG, AEG – St Louis Section
Larry Rosen, RG, AEG – St Louis Section
Greg Hempen, Registered Engineer, RG, AEG / Kansas City – Omaha Section
Rob Rohlf, RG, AIPG – President of Missouri Section
John Huss, MSPE President
Tom Gredell, CECMO and MSPE Member, Chair of the Consulting Engineering Council and Environmental Community
Mike Carlson, RG, Gredell Engineering Resources
Bruce Wylie, President of CECMO and Executive Director for MSPE
John Bognar, RG, AIPG member
David Shorr, Attorney with Lathrop & Gage representing MSPE and CECMO
Judy Kempker, APELSLA Executive Director
Diane Maljer, AEG – St Louis Section
James H Williams, RG, AEG and AIPG Member

Mr. Howard announced that Dr. Paul Foster had resigned his position as a public member and we now have public member vacancy.

Approval of Open Agenda

Ms. Brookshire noted that the roll call was performed by herself instead of Dr. Foster since she is the Secretary/Treasurer. A motion was made by Mr. Hendren and seconded by Ms. Brookshire to approve the agenda as corrected. All approved.

Approval of Open Minutes

A motion was made by Ms. Brookshire and seconded by Ms. Hosey to approve the open minutes from the May 2, 2002 meeting as submitted. All approved.

A motion was made by Ms. Brookshire and seconded by Ms. Hosey to approve the open minutes from the June 5, 2002 meeting as amended. All approved.

A motion was made by Mr. Hendren and seconded by Ms. Brookshire to approve the open meeting minutes of the joint June 13, 2002 Geo/APELS meeting as submitted. All approved.

A motion was made by Ms. Brookshire and seconded by Ms. Hosey to approve the open minutes of the August 8, 2002 meeting as submitted. All approved.

Upcoming Meetings

ASBOG Annual meeting, November 4, 2002 in Biloxi, Mississippi, will be attended by Ms. Garstang and Ms. Hosey. Ms. Brookshire offered some comments on the proposed ASBOG bylaws in regard to the change in a mandatory audit/review as opposed to a proposed review. The board members discussed this issue briefly and Ms. Hosey was asked to express the Board's concern in regard to this issue.

Meetings Attended

-Geo/APELS meeting on June 13, 2002.

At Mr. Howard's request a motion was made by Ms. Brookshire and seconded by Ms. Hosey to limit debate to 5 minutes per delegate from organizations present and following the five minute introductory comments from each organization there will be a 20 minute open forum discussion, question and answer back and forth between the people present and the board. Individuals that have not spoken previously during the introduction would be recognized by Mr. Howard first and following the open discussion there would be a two minute rebuttal from the representative from each organization. All approved

(Below is a comprehensive reporting of the comments made by attendees.)

Larry Hendren, Board Member -- On June 13th (referred to the minutes of the joint meeting presented earlier in this meeting) as you can see there were a number of people representing professional technical societies, organizations, the Attorney General's office was well represented as well as the Professional Registration office. Don Hiatte agreed to be the facilitator for this meeting. I think probably the first couple of hours were spent kind of bringing everyone up to speed on what had transpired, how we had gotten to the point that we were that day and there were numerous questions from members of the APELSLA board. They provided a lot of good questions and generated a lot of good dialogue from the people that were there. We had verbal and written statements presented by MSPE, CECMO, AEG, AIPG, DNR and some individuals present. Like so many of the other meetings I have attended this one seemed to follow the same routine, everyone was pretty well updated, positions were stated/presented to the table, questions asked, clarifications given, differences of opinion given. Like so many times when we thought things were going this way they kind of nose dive and kind

of make a turn for the worse. That is generally a sign that we are making progress because I think that's when everyone realizes that we have a big group and need to take a look at the personalities and put them aside. But from that point on the meeting went in a positive direction and the end result was the Memorandum of Understanding with Karen's help. There were numerous changes over the course of an hour and there were printouts given to the people at the table and revised accordingly and the end result was that the groups would then take this verbiage back to their respective boards, and to the respective technical societies to obtain appropriate signatures on the document. All the time realizing that the two most important signatures on there are APELSLA Board and Geology Board and probably a close third would be the Department of Natural Resources.

David Shorr, MSPE – We believe that the meeting between the two boards was a fair and reasonable exchange of issues and concerns between the two boards. The rest of us were there to (for lack of a way to say it) nudge what we believe were values but at the end of the day I believe that the two board were sitting there having a conversation with their counsel as to what they wished to see in a memorandum of understanding. It was my understanding that APELSLA board has endorsed that MOU and that discussion, I think that the way Ms. Kempker characterized their letter, is probably the most positive and fair way to discern what the issue really is, which is an overlapping concern involving an exemption. I think the MOU puts in place a platform to address that exemption in a way that is both fair and reasonable, that addresses professionalism which is the number one issue that is on the table, which is making sure that there is professional practice in these areas and that we strongly encourage you to support the MOU that was worked on by you two boards and the individuals that were there. We believe that it addresses the issue, we believe that it addresses professionalism. We believe that it addresses the fact that this board will be consulted by the APELSLA in the event that there is a challenge to one of their members doing the proper practice. I think that provides an opportunity for the RG board to participate in any discipline that may be necessary and present their position. It makes for an exclusive type of process versus a non-exclusive process but yet respects the statutory mandates for both organizations and the exemptions provided thereunder. So we would strongly encourage you to enter into the MOU with your fellow board and hopefully put some issues of the exemption behind you so that we can all get on with the practice of the professions.

Greg Hempen, AEG - Kansas City/Omaha Section. I am both a registered engineer and registered geologist. I am speaking for the section in part and I am also speaking for some engineers who may not be represented at this table. Speaking first as a registered engineer and knowing of letters sent to the Senate Committee hearing the house bill, not all engineers agreed that there should be an exemption. The practice of engineering design does not constitute geologic practice. Performing geologic tasks does not constitute engineering design, they are separate areas. The boards separately should be responsible for the people practicing in those separate areas. That shouldn't be given away by exemption and the geologists registration act does not do that. The exemption given to engineers is to retrieve engineering information that is related to geology but it is to retrieve geologic information. Speaking specifically for the Kansas City / Omaha Section of AEG we request that the MOU of the June 13, 2002 meeting be laid aside because it offers an inappropriate exemption. Further, that MOU does not meet the intent of the agreement between Senator Yeckel, Representative Treadway and participants at that time. Their intent was that the practicing professionals resolve this issue and bring it to the boards. We believe that's what's important, that the practicing professionals divide tasks where there is some gray area. But geologists or

those practicing geology whether they're engineers or geologists need to come before the geologist registration board. Those folks practicing engineering even if they are geologists in this area of so called overlap should go before the board that appropriate covers that area of practice.

Bruce Wiley, CECMO said they had nothing further and the letter dated Aug 21 will suffice for their comments. Mr. Howard read this into the record and a copy of this letter is attached as attachment A.

Rob Rohlf, AIPG Missouri Section President. As President of AIPG I have signed two letters that have been submitted. The letters requested the Board here reject the MOU and suggests an alternative. The reason for rejecting the MOU is the sentence in there that says "the boards agree Section 256.471.3 (which is one of the exemptions activities in the geologic registration act) will be interpreted to mean that engineers will be exempt", it doesn't specify type of engineer, specialty and it's giving the appearance of a loophole or engineers who practice in areas that should require multidiscipline in those areas. AIPG feels that the work being involved requires geologic interpretation that a geologist should be involved in that and use of the geologic registration act defines what a geologist is. There are engineers in the practice in this state that are well qualified but the geologic registration act provides a standard of measurement that we can have an idea of whether they really are qualified because it measures their experience and qualifications. The alternative, we are suggesting that practitioners review what other states have done and specifically the states that have designed a matrix that kind of spells out specific practice tasks that are definitely the job of a geologist and definitely the job of an engineer and then the gray area down the middle. AIPG would like to be involved in that. The practitioners creating that document and then meeting with practitioners from the engineering community to go over that and modify it to create a draft that we present to both professional boards. That could be used as a tool to enforce, the Boards could give that to DNR as a guideline to evaluate whether official documents and reports coming in were prepared by the right people and what seals should be on the document.

John Bogner -- AIPG. The CECMO letter of August 21st refers to the exemption provided for in 256.471.3. At the June 13th meeting Mr. Shorr said something to the effect that he interprets that line as being an exemption for engineers to practice geology. I wanted to reiterate the spirit of the legislation is that it is not intended to be an exemption for anyone to practice geology who does not have qualifications to do so. The intent of that is to exempt those activities from being geologic interpretation essentially. There is a difference of data collection rather than professional practice. It is not intended to be an exemption to anyone not qualified to practice geology. I wanted to clear that up.

Jim Williams -- I only wanted to comment on John Bogner's comment. I was president at the construction of subsection three, helped write that and it was with the engineer participants at the same time. They too agreed with this comment that Mr. Bogner made that it was to facilitate their work in engineering design in the use of geologic data so that it would not be a problem for a circumstance in which a person, that engineer making a geologic opinion, to help their engineering design could be termed geology. So it was in no intent expressed at all on the part of the engineers who helped to construct that, that it was for permission for them or permit for an exemption to them to do geology. But was rather to facilitate the work in interpreting just as Mr. Bogner had

said. So that is the spirit, it was there and it was the intent at the time it was constructed and it had served well until this point.

Larry Rosen, AEG - St Louis. I think that professionalism is a very important part of the engineers and geologists as they go about their duties serving the public. However, I think that the most important issue is the public health, safety and welfare. Since that's the most important issue here and knowing that both professions require the practitioners in those areas to demonstrate their competency. Competency must be demonstrated by exam and experience. Now knowing that we know that we don't want anyone practicing outside their area of expertise. Well, how do we determine that? We have established a measure for competency. I will not practice engineering because I have no background to do so. If I want to do that then I need to garner the experience, the education and take the test to demonstrate that I know what I am doing so that the public is served. Why it is not necessary for people practicing geology to show that level of competency, I don't know. I feel that if engineers feel that they are competent to practice in that area then as a responsible professional they should step forward and do that. It is an individual's responsibility to take that action and not to try to sidestep and get around it. It is important that they take personal responsibility and that is part of professionalism. It should not be the responsibility of the respective boards to be reactive because complaints are being filed because people are choosing to practice outside their area of expertise. So rather than put them in this reactive mode, why don't we be proactive. Why don't we just say outright to those people, this is how it is, this is how it should be done, this is how we expect it to be done. I think that's the appropriate course we should be taking and all the rest of this is a waste of all our times. Thank you.

Mr. Howard indicated that it was now 10:40am and that the 20 minute discussion and comment time would begin at this time and end at 11:00am. He asked Ms. Hess to provide her comments first.

Ms. Hess said she wanted to clarify the document she had helped to prepare which showed a compilation of a survey of the 50 states. She said those were compiled and as far as interpretation of those statutes, she did not mean to represent in any way that she saw each and every one as a wholesale engineering exemption, if that was the perception, then she was sorry and that it was not her intent. Her intent was to get out there what was being done in other states.

Mr. Howard said that the 20 minute discussion time would begin now and that he would recognize individuals who had not already provided their input.

Peter Price , RG, expressed his support of the position of the AEG and AIPG had taken in urging the board to reject the MOU that is on the table and that he did not feel that this MOU was protective of health, safety and welfare of the citizens of Missouri.

Rob Rohlfs asked if he could ask an open question to get a response from CECMO and MSPE. I get this impression and I would like them to comment, to try and educate or correct his impression, these two organization have spent a lot of effort over the last year to try and change the registration act, to try and get this MOU to allow engineers to do more geological work. I get the impression that there are members within your organizations that have been practicing in the past some types of geologic work and probably have the education and experience to do that but did not take advantage of the grandfather clause to get dual registered, to become registered geologists so that they can use that stamp if they are going to be practicing in geology. They just want to avoid

paying the double fees or the process or something? I am wondering are they just trying to sidestep that exercise and trying to get powerful organizations to just change the laws in states so they can use their engineering stamp?

John Huss, President, MSPE, said he would like to partially answer this. He said from their members perspective, the issue isn't really so much the words of geology. He said he was not trying to single out DNR but there were a number of documents that for 30 years engineers submitted, sealed and prepared and were approved by the Missouri Department of Natural Resources. When the RG registration act was enacted we had people who had been providing professional services and to the best of my knowledge never at the risk of health, safety and welfare of the public, were told that they were no longer qualified to do something because the RG registration act took precedence over the professional registration acts that they had been operating under for many years. I don't think these individuals have any interest in practicing geology. They simply wish to continue to practice their profession. I'll use one of our members as an example, Dan "Clockow", that it was my understanding to get his RG required him to go to a circuit court because he did not qualify under the educational portion of your act. We don't disagree that if engineers practice geology in an incompetent way or step across that line wherever that line is, that they should be censured and disciplined under the registration laws. But the issue is that the line at least to our members has been moved away from them and they are no longer able to practice within what they believe is their area of expertise.

David Shorr – I appreciate the question. I will answer the question first and then if I may comment. In response to your question as far as my dealings with these two organizations, we don't agree with you. We don't agree with you that the statute says what you say it says and that's a matter of law and that's a significant issue. While we do agree that the professionalism issue is very, very important on both sides, there's a disagreement over what this section says. That is part of the issue. It is a significant portion of the issue. And then Jim, bless his heart, gets up and says this is what 82 other states have done, I don't care. I am a lawyer here in the state of Missouri. I care what the state of Missouri has written. Now, we may disagree about that but the fact is that the interpretation from the engineering community is this provides an exemption for those engineers to work in their area of practice and that it should fall over to this board to discipline them and as a part of the MOU there was an agreement by the two boards that when it comes to a discipline under Geology that participation on this board was important to this board. That was agreed on in the MOU, which again tries to maintain the professionalism that you are seeking. That was a compromise. That is not in the legislation. The way that you interpret the legislation I don't necessarily agree with. Now, may I make a comment? I want to make a comment and I am going to do this in the form of how I am viewing this meeting. I am a licensed attorney to practice law. There is a good four of us in the room. You guys are doing interpretation of law. I don't sit here and tell you that you are not capable of doing certain interpretations of law. I think you have some very valid capability interpreting law. But yet my license and my practice area is pretty specific about what crosses the line for interpreting law. You guys are interpreting law. I think I can make a legal argument that you are crossing the line. There's a gray area. There's a gray area in all these things and that's what we are here to discuss. You are also talking about legislation. Nobody on this side of the room, in fact I don't think anybody – I maybe a little broad in this statement but none of you are registered lobbyists. Yet from what I am hearing you were all talking to state legislators lobbying a specific position. So that means that I am the only registered lobbyist that might be in this room and I'm registered. Yet I don't find it necessarily offensive if the

geologic groups go to talk about an issue to a member of the general assembly and potentially cross the line. I think that is what the conversation really is here, which is there is a group of engineers that has historically practiced a high level of geologic capability. They're engineers that are licensed in this state, there was an exception put into this law by this state for those type of people, the law of registration for them says that if you exceed the practice in expertise you get dinged and you lose your license and the MOU says that these folks on a geologic item should be brought into to be provided for by counsel. I think that is exactly what was intended by the statute. I think these zones of whose got absolute registration kingdom is always going to have a zone that is not clear. That is the purpose of the MOU and that is why we support having the MOU.

Greg Hempen - There is one area of disagreement and that is that the practice has changed. Both engineering and geology over 30 years and what people have done for 30 years may not be appropriate any more. Furthermore, it just so happens that many of the rules that engineers are disappointed with that they can't seal changed over the time frame that the geologist registration act came into existence. There are separate things going on here that don't meet the requirement of education, examination and experience. Things change over time and people need to change with it. Furthermore, we are in fact talking about geology and engineering and the health, safety, and welfare of the Missouri citizens won't be done, served properly if a lawyer gets out there and helps decide whether that's geology or that's engineering. We want to do the proper practice for health, safety and welfare. I'm sorry if I can't interpret the law properly. I'm not qualified to do that. I accept that, but I do want to have the geologists doing geologic work and I want to have engineers doing engineering work. There isn't that much overlap as a person in both professions. There is not that much overlap. I don't know why the boards have to have things go to one area of practice if it's another's area of practice responsibility. If the law, it seems very clear, but I can't interpret it evidently but Missourians won't be served whether I can interpret it correctly or not, it will be served by the proper professional doing the proper work.

Jim Williams. I believe there's a correction. Dan Klackow was a grandfathered registered geologist. He was one that was grandfathered in based upon his record of performance and that is by the way in a number of things that I surveyed that being able to demonstrate before the fact, not after the fact. Not after one comes to a board by willfully claiming something wrong. It was before that fact that Dan demonstrated his competency and experience. And number two, when the spirit of the law, subsection three, was created I was a registered lobbyist at that time and I was a registered lobbyist all the way through the process. Working closely with the legislature doing that I am in a sense, paraphrasing their statement, but it was their spirit and their intent that did exactly what it was designed to do. And that was to facilitate the cooperation between these two professions. Senator Yeckel and Representative Treadway indicated that they wanted this domestic dispute out of our legislature, this is something that you professionals need to work at yourself and propose your solutions to your board. Don't come back and bother us again.

Judy Kempker, Executive Director, APELSLA - I just wanted to say those of you who were at the June 13th meeting were there when the memorandum was drafted which you revised, finalized and agreed upon. Those are the words from the minutes taken and those were the words that I remembered. In talking to my board members they left with the impression that both boards and the societies that were there that day were in agreement and it was brought back to the full board membership for an official vote, which my board did do earlier this week, on Monday. All four professions were in on that

vote and it was a unanimous vote. Part of the agreement was that the two boards would work together and our board definitely feels that only a person with competency in that area should be practicing and part of receiving a license as a professional engineer you are to only practice in your area of your expertise. We have received a complaint that addresses this exact issue. Part of the MOU is that the two boards would work together and it was decided that if this engineer did exceed his area of expertise then our board can take disciplinary action. I have provided your Executive Director with a letter of invitation inviting a representative from the geology board to meet with our board when they next meet in November to discuss this. So, we kind of took the first step of what we thought was agreed upon in June and our board was very anxious to work together, they were very complimentary of how all the individuals at that meeting came together and were able to walk away with an agreement that we thought everybody was in support of. Thank you.

Rob Rohlf. I would just like to add a comment about some of the elder members in our group when the geologic registration act came about. It was a hard sell to get some of them involved, they had the attitude of 'what do you mean? I'm an expert and now I have to start paying a hundred dollars up here or whatever?', complaints like that. They were told we need this, this is a tool, you are a geologist in experience but you really need this because it is a way that society measures whether you are geologists or not. It distinguishes you from someone who took an intro geology course in college from calling themselves a geologist

John Bogner – The MOU was no doubt a collective issue of opinions. I would say that it was far from agreed to. I know that AIPG did not agree to it that day. I represented them that day. I would also say that the MOU was being revised literally while we had broke up. Shorr and I were standing to the side having a discussion about an unrelated topic and they were up there changing words on the thing and then they handed something to us as we were walking out. So, it is not a fair representation to say that this MOU was agreed upon, not at all. Now the spirit and all of those things that you said about the intent to work together, yeah. It really was a wonderful meeting and in that respect it really was. But we had a draft on a piece of paper and it is probably a good starting point. That is what the professional societies on the geologists side want to do. Yes, it is a good starting point but let's let the technical guys work on it and refine it until we have a workable document. I think that is what Larry Rosen's main point was, to let's get that thing revised and the whole big concept here is still very much intact.

Mr. Howard indicated the 20 minute discussion time was at an end. Someone asked Mr. Howard if there was a vote at the end of the June 13, 2002 meeting and he responded that he thought it was a consensus opinion. Mr. Howard asked the board members if they had any questions or needed further clarification from the organizations that were present.

Ms. Garstang indicated that she had a comment. She said she wanted to say that the Department of Natural Resources does look for an RG seal on geology work as well as a PE seal on engineering work and those decisions of what requires seals was not done in a vacuum, it was done with legal advice. She said she just wanted to clarify that. She said for the benefit of the board members that were not at the joint meeting of the boards, she said she offered comments from DNR but felt a lot of the conversation was spent on how to make DNR change their policy rather than the overlap of two professions and she felt that discussion on how to make DNR change their policy actually led us into the language that ended up in the MOU.

Mr. Howard asked if anybody wanted to offer any rebuttal and requested that the rebuttals be kept brief and to two minutes.

David Shorr - No rebuttal is really necessary. Our position is clearly stated in the letters that have been sent out. I think that one thing that can be said if we are talking above board here. I think that the comment made by the gentleman in the corner is appropriate, that the issue is trying to get quality people doing quality work. I don't think there is a dispute on that. I think we do have a dispute over how the statute was crafted. I think we made an attempt, a solid attempt to try and get the necessary expertise's between the two boards in a position to make sure that the perceptions of the language of the legislation and the intent of what the gentleman said here of having sound geologic evaluation is included. I do want to make a comment about "reactive" and I don't want to make it negative but the fact is that almost everything we end up doing is, whether we like it or not, in this kind of process tends to be more reactive than proactive. I think we all like to try and have a different perspective on that. I am not characterizing in a negative sense but that's the nature of how disciplines conducted. The presumption should be that a party is going to act in good faith and do what they are going to do, correctly not that they will purposely defraud the public. I think both professions have to weigh on that amongst their memberships in doing that and I think it's unfortunate that it has to be reactive, but that is called due process. I would just characterize it by the fact that there has to be some reactivity gives both boards the ability to react in the event of an engineer problem as well as a geologist problem. We encourage your support.

Greg Hempen - I would not characterize this as exactly a rebuttal. I guess I would just reiterate a couple of points very briefly. Those points are that I was in a meeting with Mr. Gredell and we made progress under time constraints under a hammer and for these types of issues I don't think that you should be under time constraints. I don't think that you should be under pressure to get things done that are important to health safety and welfare. I would like to return this to a meeting where the practicing professions could talk about what are really engineering tasks, what are geologic tasks, where is the appropriate gray line. I think those professions can do that. I believe that would be the best approach for the boards but that is up to the boards to resolve. We can only suggest that. The last thing that I would like to say as one engineer that I disagree vehemently with the position that is being placed as all engineers agree with this point of view. All engineers do not agree with this point of view that is being represented.

Bruce Wiley - I will comment as a registered lobbyist as we put in this section of law, it was our interpretation it was an exemption for engineers, so I completely disagree with Jim Williams' interpretation of that. I think we are following the spirit of, for whatever that is worth, Senator Yeckel and Representative Treadway, this MOU is exactly what they wanted. This gets it to the board regardless of whether everyone agrees with it, you two boards are the ones that have to interpret the law, not state agencies. So we urge you to sign, as you all agreed to at the meeting, the MOU. Sign the MOU and let's move on to working on areas in both professions that can help guard the public's health, safety and welfare.

Rob Rohlf - AIPG still wants to encourage backing up a little bit and looking at those specific tasks and seeing what the practitioners can agree on, whether it is geologic practice or engineering practice or something both professions can both perform. Get that put together and use that to enhance the MOU which have started working on together.

Larry Rosen -- We don't live in a perfect world and I appreciate Mr. Shorr's comments regarding that as result we do sometimes have to be reactive. However, we have this golden opportunity before us where we don't have to be reactive and we can take a different course and they can choose to demonstrate competency ahead of time rather than after the fact. It's a matter of coming forward urging your members both as geologists and engineers that if they wish to practice in an area which is governed by these statutes, come forward. This is an open debate and you should be informing your members of what is going on, telling them if this is what they want to do, come forward and demonstrate their competency and put the debate to rest.

Mr. Howard thanked every one for a cordial and informative discussion on this issue. In light of the last meeting on August 8, 2002 when we did not have the proper sunshine law requirements met this is the first opportunity for the full board to sit and discuss this issue. A motion was made by Ms. Brookshire and seconded by Ms. Hosey to go into closed session for #2 at 11:15am. Ms. Brookshire, Ms. Hosey and Mr. Hendren all approved. The visitors left the room and the board returned open session at 11:30am at which time the visitors returned.

There was continued discussion of MOU by the board members, which is comprehensively reported below.

Larry Hendren, Board Member -- What I would like to do is maybe to lead this off going backward in time. I know a lot of you have heard this before and I apologize for rehashing some old stories and events but when I joined the board in 1996 and then one of the first things we tried to accomplish after getting organized, and Jim Williams spearheaded this, and that was getting a MOU among professional and technical groups and professional boards because we realized we had come a long way in getting this act approved and in the law. There were still some repercussions from the legislation itself from some engineers. We still at that time felt there was an overlap of responsibilities. Jim took the lead on this and worked with the Attorney General's office. It is interesting to listen to Karen because I think I have heard what she has said from about 5 or 6 attorney generals when it comes to addressing Memorandums of Understanding. We heard the same thing back then. Regardless Jim was instrumental in getting the organizations together. John, I think you were there, I was there, Jim was there, Mr. Kent from Joplin was there and of course, MSPE and CECMO were represented by Bruce Wiley back then also. We all came to the agreement that as a collective group we could work together and gain positive things for the public health, safety and welfare, primarily through the legislative process. We all agreed from day one that if we divided that we were both gonna lose and that's why we wanted to stick together. And that is one of my main reasons, not the main reason but one of the reason, that I always wanted to serve on this board, being a professional engineer and professional geologist I felt that with this overlap that it was important to have someone on the board who could look at both sides and maybe present both sides and that has gotten me more involved than what I thought it would. We moved ahead until January, 2002, when we were trying to get together across the state between AEG, AIPG to discuss the house bill that had been presented by Representative Treadway that evidently had been initiated by CECMO and MSPE. I have never said it Bruce, but I'll say it today, I really was taken aback and somewhat offended that I didn't know anything about it and when it was presented to me I was upset. I was actually the one who said let's meet in Columbia and made the arrangements for the geologists to get together because I didn't think it was a good bill. I thought it was wrong and I felt that the geologists had their backs up

against the wall and should do every thing they could to oppose it and may be work towards a compromise. So, we had this meeting and some of us people in this room had our marching orders to go down to meet with the engineers and Representative Treadway and so we took those marching orders. Representative Treadway said okay, it looks like we can work something out and you all go lock yourself in a room and don't come out until you have both compromised and I want it on my desk next Tuesday. We met on a Saturday and after a long period of time we came up with language that we all agreed to, we all shook hands, we all went home. I met with Bruce Wiley on Tuesday. I went up to the Capitol and met Representative Treadway and we said this is what we have all agreed to. Representative Treadway looked at Bruce and said are you sure and Bruce said yes and Representative Treadway said and the geologists can live with this and I said yes. Later on I got back to my office in Jefferson City where I had call messages and there are already some problems with that language. Then we met again in Representative Treadway's office and at that time Representative Treadway looked us square in the eye, while we were trying to modify and fine tune some changes to the language, and said a deal a deal isn't it and we struck a deal. I said yes, yes we did. I am not saying that that language couldn't be changed and I'm not saying that that language should have been changed. It was a deal and in my opinion, that was my word and I was going to stand behind it and live with it. Then of course we had the situation with the hearings that I wasn't involved with where the compromise took place in the chambers between CECMO and I guess the geologists so forth. At that time of course there were some arrangements and so much changes made that it couldn't be lived with. That is when we had our meeting and we were asked to join the engineer's board and discuss this. So we got a facilitator and met at the Attorney General's office and discussed many of the same things that we discussed in Columbia and many of the things that we discussed in Jefferson City and we discussed them again. Out of that meeting we came up with this MOU which, in my opinion, is not perfect, it's a not 100% of what either side is wants to agree to but I know and my comment to John was that once you've been through these meetings and you go in like a tiger really fighting for your side and then you sit across the table and discuss these things rationally and you hear each other's side and you try to strive to come to some kind of compromise and I feel that what we did in January and in June at the Attorney General's office in June. I told the group at that time that I support this MOU and I stand behind my word and still stand behind this MOU.

Cynthia Brookshire, Board Member, -- Well, not having had benefit of attending all these marathon meetings and repeated meetings and this and that. As coming from just a geologist's background, not an engineer background, I guess I tend to take things at face value and we have had discussion after discussion among the board on what needs to happen, how we can work together with the other board, perhaps how we can define more specifically what is our jurisdiction, what is APELSA board's jurisdiction. Hearing all sides from all agencies here today and I thank you for coming. I guess my bottom line is I didn't write this so I don't know the intent. Ten years from now when someone is reading this and perhaps trying to use it for whatever purpose, good, bad or indifferent to either board I don't think intent will mean anything to those folks. They won't know, they won't understand. I agree that this would be a great starting place to have them in a memorandum. I don't really feel like the particular verbiage in this version is something that I am satisfied with and again I didn't sit in on all the meetings and I come in and say I don't like it at the last minute and face all your wrath but I really don't support the particular version. I do agree that the overall idea is very useful and very necessary. I just don't happen to agree with the particular verbiage in this draft.

Lisa Hosey, Board Member -- Well, I represent the state of Missouri geologists and I am a geologist. The folks that are represented here today, it seems any geologist here is not for this MOU, they're against it and given that I represent the geologists and that's my point of being here I am not for it.

John Howard, Chairperson, -- I like Larry have kind of been involved in this fracas from the outset back in 1996. Unfortunately I wasn't part and parcel to negotiations with the legislators because of my position on the board and also because of personal reason in not being available for the January meeting. When all the organizations came together in 1996 the intent was to ensure professionalism in the practice of certain environmental activities, mainly UST closure activities and to ensure that a licensed professional, be it an engineer or geologist, was involved in those activities and to prevent the fly-by-night tank anchors and back hoe guys from going out and stirring up and causing an even bigger environmental problem than was necessary. At the time, and I think that is still its intent. It was recognized that whether it be an engineer or geologist the fact that there was a technical professional involved in the process would prevent any kind of catastrophic environmental problem from occurring. The intent was to issue a position paper to DNR requesting that the UST section begin to require signatures and seals on UST closure documents because of the lack of professionalism that was perceived in that field. Representatives of the UST section basically came and told us 'we're not gonna do it because we don't want to'. At the same time there were some internal discussions within DNR to identify what documents should or should not require signature and seal and that was a long drawn out process but it was finally recognized that certain documents required engineering seals, certain documents required geologist seals and I think there was a recognition there would be certain documents that may require both. Now we jump forward to the new UST closure guidance documents which came out in November 2000, under some opinions of some of us that feel were less than the qualified procedures that they should have been following. There was not a large stakeholder discussion on the guidance document and what was sent out in draft for public comment it appeared that there was a unilateral effort by some people in DNR to add a few other individuals to get new closure documents rammed down everybody's throat without proper public comment. One of the facets of that document was that they were going to require an RG seal on all UST closure guidance documents, which brings us to today. I would disagree with my fellow board member in that we represent Missouri geologists, we are not representing geologists. We are representing the citizens of Missouri. We're not here to endorse or promote the profession of geology. We are here to endorse and promote professionalism in the profession and to ensure that the citizens have the most qualified practitioner looking out for their interest. We all have to make tough choices and we all have to .. and in the future we'll have to choose the lesser of two evils when making decisions. I agree that the document before us is maybe not the best or most perfect document. I agree that there probably needs to be further discussion amongst the parties but we've got to start someplace. We can't keep rehashing the same material, coming up with a document and then because one or another person objects to one word or one sentence or this or that or the other thing, it gets thrown out the window and we have to start all over. I am tired of it. I feel that, it's my personal opinion, that nothing we do here today, nothing we have done in the past and nothing we may do in the future is going to resolve this issue until it is heard in a court of law and a judge rules on us. It's a feeling I have. But I, like Larry, sat in the meeting. I felt it was the best situation or compromise the we could come. It's a starting point and I have to support it. I agreed to it.

Mimi Garstang, -- I fully support an MOU between the boards. I think that is a very important step for both boards to make. I think for MOU or guidance or whatever document is put together, for it to be successful you got to have the support of both sides. From what I heard today I didn't hear the support of both sides. I think it's unfair and somewhat dangerous to try to develop an MOU or an agreement or guidance with one or two people crammed in a room, do it real quick. When the two boards got together it was my understanding that whatever came out of that meeting was going back to total populace of both professions with all of them taking their time looking at it, and give their comments back to board members. Which I think we've heard today a lot of comments from the professional organizations. I think this board has heard from their constituency that they are not very happy with it as it is.

A motion was made by Ms. Brookshire and seconded by Ms. Hosey not to sign this particular MOU. Ms. Hosey and Ms. Brookshire voted to approve. Mr. Howard and Mr. Hendren voted not to approve the motion.

A motion was made by Ms. Brookshire and seconded by Ms. Hosey to table the MOU until we have a full complement of voting board members. All approved.

A motion was made by Ms. Brookshire and seconded by Ms. Hosey to adjourn for lunch at 12:00p.m. All approved

The meeting reconvened in open session at 1:00p.

Geologist-Engineer National Survey:

This information was discussed earlier in the meeting and no further discussion was required.

Documents with multiple seals:

After a brief discussion a motion was made by Mr. Hendren and seconded by Ms. Brookshire to direct our staff and our attorney general's representative to draft language similar to what is presented here as an addition to 4 CSR 145-2.100, paragraph three, regarding multiple seals for different disciplines. Mr. Howard further amended that in addition to the language that we have been given that language be further developed to identify a specific certification page to be used by licensees and that all be a part of the new proposed rule. Mr. Hendren accepted the revision, which was seconded by Ms. Brookshire. All approved.

Executive Director's Report:

♦ *Financial Update* – Ms. Goose reported that the Board members can now be paid Per Diem and that the funds have been set aside in the budget for this purpose. She said it is recommended that we pay \$50.00 per day and it is also recommended that a document be created which lists the activities that Per Diem will be paid for i.e., prep time, meeting time, travel time, representing the board at a conference/meeting etc. Ms. Goose said she could prepare a draft document and the board members could review it at the next meeting. The board requested copies of the 5 year projections and the last years fund end balance.

♦ *Newsletter Update* – Ms. Goose said the newsletter has already been mailed out.

♦ *Renewal Update* – Ms. Goose indicated that 831 renewals were printed and mailed out. As of August 1, 2002 639 licenses had been renewed and 42 licenses were placed into lapsed status due to non-renewal.

Mr. Howard requested staff to look into tracking a licensee's area of practice and explore the ability to produce a list of licensee's which will show their area of practice.

A motion was made by Ms. Brookshire and seconded by Ms. Hosey to close for #1, #2, #5, and #9 at 1:37pm. Ms. Brookshire, Ms. Hosey and Mr. Hendren all approved.

The board returned to open session at 3:30pm. The board members discussed a possible date of September 18, 2002 for a conference call to revisit the issue of the memorandum of understanding with Michelle Smart, public member present. Staff was instructed to provide Ms. Smart with copies of the meeting tapes and to ascertain if she would be available on September 18, 2002 for a conference call.

A motion was made by Ms. Brookshire and seconded by Mr. Hendren to adjourn at 3:45pm. All approved.

Amela DeRose

Executive Director signature

11.14.2002

Date approved by board



Consulting Engineers Council of Missouri
200 E. McCarty Street, Suite 201
Jefferson City, MO 65101
(573) 634-4080
FAX: (573) 634-8929
Website: www.cecmo.org

AUG 22 02 00 00 9 5 August 21, 2002

2002-2003
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Mr. John Howard, R.G.; Chairperson
Missouri Board of Geologist Registration
P.O. Box 1335
Jefferson City, MO 65102

Re: Memorandum of Understanding between the Board of Registered
Geologists and the Board for Architects, Professional Engineers,
Professional Land Surveyors and Landscape Architects (APELSLA)

Dear Mr. Howard:

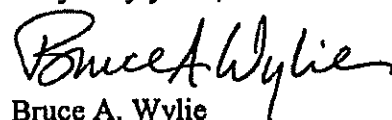
We are writing this letter to encourage your support in your efforts and those of the APELSLA to resolve conflicts and potential legal actions involving the exemption provided for in Section 256.471.3, RSMo. We believe the Memorandum of Understanding drafted jointly by the two Boards with the advice of their attorneys from the Attorney General's Office appropriately protects the professionalism of both professions while continuing the objectives of the Missouri General Assembly.

We understand that certain organizations wish to continue to engage in turf-related activities to exclude qualified professionals licensed to practice under both the Registered Geologists Board and the APELSLA Board in their areas of expertise. They fail to recognize that each Board is fully capable of disciplining its licensees for their professional failures. They are also apparently willing to ignore the law and the efforts of the General Assembly to recognize the experience and training of other professionals. This approach can only result in long, drawn-out legislative and legal battles unless we can resolve this issue with the Memorandum of Understanding.

Your fiduciary duty calls for you to resolve these types of disputes, work with other state regulatory boards, and eliminate problems of professionalism, not exacerbate them. We believe the opportunity exists at this point in time to properly acknowledge the quality and professionalism of all professions represented by the Boards.

We strongly encourage you to stay the course and direction, endorse the Memorandum of Understanding with APELSLA, and uphold the statute as you have been charged.

Very truly yours,



Bruce A. Wylie
President & CEO

cc: MoAPELSLA

Attachment A

MOTIONS

1. INVESTIGATIONS / COMPLAINTS / AUDITS

I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant.

2. LEGAL ACTIONS / LITIGATIONS / PRIVILEGED COMMUNICATIONS

I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (1) RSMo for the purpose of discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney.

3. DISCIPLINE

I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (1) RSMo for the purpose of deliberation on discipline.

4. PROMOTING / HIRING / DISCIPLINING / FIRING EMPLOYEES

I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (3) RSMo for the purpose of discussing hiring, firing, disciplining, or promoting an employee of this agency.

5. APPLICATIONS

I move that this meeting be closed, and that all records and votes pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing applicants for licensure.

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed, and that all records and votes pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (13) RSMo for the purpose of making performance ratings pertaining to individual employees.

7. EXAMINATION MATERIALS

I move that this meeting be closed, and that all records and votes pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (7) RSMo for the purpose of discussing and/or reviewing testing and examination materials.

8. DIAGNOSIS / TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (5) RSMo for the proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees.

9. CLOSED MINUTES

I move that this meeting be closed, and that all records and votes pertaining to and/or resulting from this closed meeting be closed, for the purpose of reviewing and approving the closed minutes of one or more previous meetings under the subsections of 610.021 which authorized this agency to go into closed session during those meetings.